



**STATEMENT OF**  
**THE NATIONAL ASSOCIATION OF INDEPENDENT LIFE BROKERAGE**  
**AGENCIES (NAILBA)**  
**BEFORE THE**  
**SUBCOMMITTEE ON CAPITAL MARKETS, INSURANCE AND**  
**GOVERNMENT SPONSORED ENTERPRISES**  
**OF THE**  
**COMMITTEE ON FINANCIAL SERVICES**  
**OF THE**  
**UNITED STATES HOUSE OF REPRESENTATIVES**  
**ON**  
**THE NEED FOR INSURANCE REGULATORY REFORM**

October 30, 2007

Statement Made by:

John W. Felton, IV  
Chairman of NAILBA and President of the Tennessee Brokerage Agency

National Association of Independent Life Brokerage Agencies  
12150 Monument Drive, Suite 125 • Fairfax, VA 22033  
Phone: (703) 383-3081 • Fax: (703) 383-6942 • [www.nailba.org](http://www.nailba.org)

Mr. Chairman and Members of the Subcommittee, my name is John Felton. I am the current Chairman of the National Association of Independent Life Brokerage Agencies or (NAILBA) and the President of the Tennessee Brokerage Agency in Knoxville, Tennessee.

I am appearing today on behalf of NAILBA, the principal trade association representing wholesale brokerage of life insurance. NAILBA is a nonprofit trade association with over 350 member agencies in the U.S. and Canada, representing 100,000 producers who deliver more than one billion dollars in first year life insurance premiums annually. A normal NAILBA member agency may employ anywhere from 10-30 employees and operate in an average of 31 states. We are small businesses but represent the fastest growing distribution source of life insurance and are expected to deliver close to 80% of the domestic market by 2020.

I appreciate the opportunity to appear before you today to discuss the critical need to streamline and modernize the insurance regulatory system in the United States. Despite the best efforts of the National Association of Insurance Commissioners (NAIC) via the Interstate Compact, the current state-based system does not enable insurance carriers and agents to provide new competitive products to consumers throughout the United States in a timely fashion. Additionally, the current system lacks uniform and equal opportunities to every citizen in all states to access similar products and protections. For wholesalers

that are licensed in multiple states, the inefficiencies and inconsistencies within the system are costly and potentially harmful to consumers.

I would like to take you inside a typical NAILBA agency so that you have a greater understanding why federal regulation of insurance would greatly increase insurance distribution productivity, increase sales, increase consumer satisfaction, lower consumer and broker confusion, and the lower the potential for Errors & Omissions (E&O) and other litigation.

All NAILBA agencies have contracts on average with 15-20 different life insurance carriers. The NAILBA agency is a wholesaler whose customers are insurance brokers and agents. These clients in turn market insurance products to the insurance buying public. The insurance carrier will outsource sales, marketing, agent training, and some underwriting functions to NAILBA wholesale agencies. By eliminating these functions it allows the life insurance company to focus on product manufacturing, applying the savings to more competitive and consumer friendly products. The insurance agent or broker is served by accessing product from the NAILBA member agency because the agency is independent and able to provide unbiased advice to help the broker select the best company and product to meet the needs of the customer. The consumer is served by a distribution system that creates a demand for competitive products and the increased efficiency delivers those products.

All NAILBA agencies have a substantial customer base of insurance brokers that may be located in different states or may solicit insurance in multiple states. On average, NAILBA member agencies are licensed in 31 states and spend nearly \$12,800 per year just to update the proper state regulatory forms. This multi-state nature of a NAILBA agency forces us to be keenly aware of the pitfalls in the current system. Let me provide a few examples:

Something as basic as the determination of which of the 50 states will regulate a given case might not be as straight forward as you think. Our members and their agents must ask themselves the following:

- What state does the insured live in?
- In what state will the application be signed by the insured?
- Is the owner of the policy different from the insured, and if so, in what state will the owner or owners sign?
- In what state does the owner live?
- In what state will the policy be delivered?

If the answers to all of these questions are the same state we do not have a problem.

However, if two or more states are involved then we need to find the universal state of jurisdiction rule book. As you know, this rule book does not exist. There are 50 different rule books any two of which may give us a different answer. The result is a huge regulatory maze.

A brokerage agency will not attempt to navigate this maze alone but rather seek guidance from the compliance department of the insurance company(s). However, when we provide two companies the exact same set of facts, we are likely to receive two different answers.

Determining the correct state of jurisdiction is only the beginning of the regulatory jungle. There is an obvious challenge of making sure that we quote a product that is approved in the state or states in question, taking special care that any rider or benefit discussed is both approved and is the most current version of the product for that particular state. Additionally, we make sure to send the most current state version of the application and sales literature for the product along with the required state specific disclosures and replacement forms if necessary.

As the process moves forward, before the NAILBA member agency can accept an application from a broker, we must determine if he or she is authorized to transact business in the state in question and further we must determine if there is an active appointment in that state with the correct carrier. A wholesale brokerage agency will have an entire department devoted to tracking, recording and solving licensing and contracting issues. As a group of small business owners, this is very expensive and does nothing to benefit consumers.

A simultaneous submission state is one where we can send in the broker licensing along with the first case submitted by the agent. Most of the states are simultaneous submission states but what about the other states? There are some states that require that the broker be appointed with an insurance company prior to the date of the application. Imagine you are a broker and you have to go back to your client to get a new signature on a currently dated application and you are trying to explain that you were not authorized to take the first application.

Still more challenging are states that require the appointment date before any solicitation of insurance on the part of the broker. How do you go about compliance in this case?

We can make sure that all illustrations are dated after the date of the appointment but we cannot prove that there was no solicitation of a specific product prior to the appointment date. There is no insurance company compliance department consensus on:

- The list of simultaneous submission states;
- The list of sensitive states that require the appointment date prior to the application;
- The list of sensitive states that require appointment prior to any solicitation of insurance.

We have had to send back applications or have the insurance company reject an application for all kinds of reasons. Imagine for a minute what happens if the broker's client were to die after the rejection of the first application signed by the consumer while we sort out the regulatory requirements necessary for a company to issue a policy. These unnecessary regulatory traps are fertile ground for litigation.

There is no question that the current 50 state regulatory system is broken. Because the NAILBA agency represents multiple companies in multiple states we see firsthand the unnecessary complications and inefficiencies this brings to our industry. We understand clearly how the current system multiplies the possibility of error, litigation and loss.

## **Conclusion**

NAILBA believes an Optional Federal Charter approach would provide consumers with increased access to competitive and market reflective products more quickly. The reduction of costs associated with working with one regulator, not fifty, would be reflected in the pricing of products. This would have the effect of reducing costs to the consumer, providing consistent agent licensing standards and continuing education requirements. Centralized control of agent status through a national database would provide consumers with a higher level of confidence in those who represent the insurance industry. Additionally, NAILBA supports federal regulation of insurance that would put the insurance industry on equal standing with other financial services industries.

Currently, the insurance industry does not have a central office to voice concerns or attempt to improve industry practices/standards in an efficient manner throughout the entire fifty states. This centralized system will also provide further protections for the consumer. Fraudulent producers must be prevented from illegal actions against multiple companies and consumers by moving from state to state. A national system would be a positive step to deter such occurrences.